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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,865	02/11/2004	Michael Piro	LFS-5006USNP	6118

27777 7590 08/01/2007
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EXAMINER

QUINN, COLLEEN M

ART UNIT	PAPER NUMBER
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3634

MAIL DATE	DELIVERY MODE
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08/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/777,865

Applicant(s)

PIRO, MICHAEL

Examiner

Colleen M. Quinn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/11/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

Claim Rejections - 35 USC § 103

Claim 3 is objected to because of the following informalities: it appears the applicant neglected to insert to the word --strip-- between "lower" and "push" on line 11 and delete "system" on line 9 of claim 3. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wear et al. (US 5,069,349) in view of Cugley et al. (US 5,137,340).

Wear et al. disclose an apparatus capable of displaying self monitoring blood glucose systems and related strip supplies, the apparatus comprising a system tray (12) configured for displaying self monitoring blood glucose systems in an accessible manner, the system tray having a system tray proximal wall (18), a first system tray sidewall (16), a second system tray sidewall (17) and a system tray base (15); and a lower strip supply tray (12'; col. 3, lines 17-23) configured for displaying related strip supplies in an accessible manner, the lower strip supply tray having a lower strip supply tray proximal wall (18'), a first lower strip supply tray sidewall (16'), a second lower strip supply tray sidewall (17'), and a lower strip supply tray base (15'), the lower strip supply tray being connected at the first lower strip supply tray sidewall to the second system

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tray sidewall (figure 8); a pillar (40') with a lower end and an upper end, the pillar vertically connected at the lower end to the lower strip at the distal end (figure 8) and an upper strip supply tray (13') configured for displaying related strip supplies in an accessible manner, the upper strip supply tray being connected to the upper end of said pillar, wherein the upper strip supply tray has an upper strip supply tray proximal wall (18'), an upper strip supply tray first sidewall (16'), an upper strip supply tray second sidewall (17') and an upper strip supply tray base (15'), a system tray push plate (25), moveably connected to the system tray base; a system tray tension coil (35), operatively positioned between the system tray base and the system tray push plate; a lower strip tray push plate (25'), moveably connected to the lower strip tray base; and a lower strip tray tension coil (35'), operatively positioned between the lower strip tray base and the lower strip tray push plate; wherein the system tray push plate and system tray tension coil are capable of feeding self monitoring blood glucose systems towards the system tray proximal wall, and wherein the lower strip tray push plate and lower strip tray tension coil are capable of feeding related strip supplies towards the lower strip supply tray proximal wall. Wear et al. fail to disclose a distal end wall on the trays and a theft deterrent cover positioned around the display.

However, Cugley et al. teach a display apparatus (figure 3) comprising tiered trays (2) each comprising a proximal wall (57), sidewalls (56), rear wall (58) and a signboard apparatus (11) all cooperating to contain the stored items and clearly advertise the product on display. Additionally the apparatus comprises a first strip cover (21), vertically positioned adjacent an outer edge portion of the tiered trays (figure 1),

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the cover configured to limit access, from a side of the apparatus, to related strip supplies displayed in apparatus, a second theft deterrent cover (22), vertically positioned adjacent an opposite outer edge of the display, the second theft deterrent cover configured to limit access, from a side of the apparatus, to self monitoring blood glucose systems displayed in apparatus; and an upper theft deterrent cover (9) positioned to limit access, from a top side of the apparatus, to self monitoring blood glucose systems and related supplies displayed in the apparatus.

Therefore, it would have been obvious to one of ordinary skill in the art to provide the display apparatus of Wear et al. with a tray rear wall, as taught by Cugley et al., to provide additional support in storing items in the tray; a signboard apparatus, as taught by Cugley et al. attached to the proximal walls of the trays to provide adequate advertising for the display users and a cover, as taught by Cugley et al. in order to limit user access to the front of the display.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Adenau (US 4,887,737), Gullett et al. (4,651,883) and Papadakis et al. (US 5,918,954) all teach key features of the applicant's claimed invention.

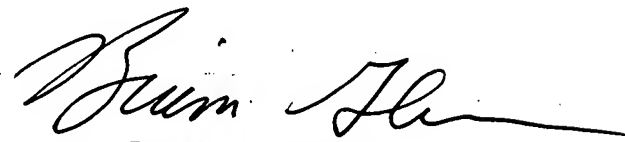
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colleen M. Quinn whose telephone number is (571) 272-6289. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571)272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMQ
7/25/07


BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER